

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

LETICIA H. VASQUEZ, ALAN J.  
VASQUEZ,

*Plaintiffs,*

VS.

FAY SERVICING, LLC, MORTGAGE  
SERVICER FOR WILMINGTON TRUST  
NATIONAL ASSOCIATION TRUSTEE  
FOR MFRA TRUST 2014-2 AND W.A.  
MARTY LACOUTURE AS  
SUBSTITUTE TRUSTEE;

*Defendant.*

SA-21-CV-00543-JKP

**ORDER REGARDING PLAINTIFF'S SHOW CAUSE RESPONSE**  
**AND DEFENDANTS'S MOTION FOR LEAVE TO FILE COUNTERCLAIMS**

Before the Court is the above-styled cause of action, which was referred to the undersigned for all non-dispositive pretrial proceedings on September 1, 2021 [#3]. The Court ordered the parties to appear for an initial pretrial conference, to confer as required under Rule 26 of the Federal Rules of Civil Procedure, and to file a joint Rule 26 report and joint proposed scheduling recommendations. The Court held the conference on September 24, 2021, as scheduled. Defendants appeared through counsel; Plaintiff failed to appear and failed to confer with opposing counsel as ordered by the Court. Following that conference, the Court issued an order directing the Plaintiff to show cause why this case should not be dismissed for want of prosecution and for failure to follow a Court order [#9]. Plaintiff's counsel filed a response to the Court's order explaining that his absence was due to a death in his family [#12]. In light of those circumstances the Court does not recommend dismissing the case for want of prosecution.

Subsequent to the above-mentioned conference, Defendants filed a Motion for Leave to File Original Counterclaims [#11]. A response in opposition to that motion was due from Plaintiff by October 12, 2021. Plaintiff has not filed a response to the motion, which means the motion for leave can be granted as unopposed. *See* Local Rule CV-7(d)(2). Plaintiff's response to the Court's order to show cause references a "motion to dismiss" in its title. A motion to dismiss is not currently pending before the Court in this case. To the extent that Plaintiff intended the response to the Court's show cause order to also serve as a response to Defendants's motion for leave, there is no substantive discussion of the motion in the body of Plaintiff's response. Therefore, the Court considers Defendants's motion for leave to be unopposed.

**IT IS THEREFORE ORDERED** that Defendants's Motion for Leave to File Original Counterclaims [#11] is **GRANTED**.

SIGNED this 12th day of October, 2021.



ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE